

to interfere before the power of the courts to punish for contempt. The most deeply prized offspring of our national liberty is the freedom of the press. It is so, because it can be made its most effective protection of liberty, and because it can be employed as the most potent of weapons to subvert the empire. The great enemy to freedom is ignorance. In the arena of the knowledge of their rights, and a vindication of their rights follows as surely as light follows the rising sun. Yet the freedom of the press is often used for the most unworthy purposes. Such, indeed, as sad experience teaches, is often the melancholy fate of the greatest blessings that a wise providence has bestowed upon us or that human skill has invented. The free air we breathe is essential to our existence, but when infused with poisonous matter, it becomes the most terrible weapon of death. But why would I argue, because disease may float in the atmosphere, that the atmosphere should be destroyed.

Our constitution has declared that "every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that liberty." Art. I, Sec. 2. The reflections of the petitioner upon the recent judgment of the Warren court, as set forth in the petition complained of, when judged by the practice and assumptions of the English and some of the American courts, constitute an undoubted contempt of an aggrieved character; but when passed through the crucible of our State constitution, instead of a contempt of court, they become a mere libel on the judiciary, and subject only to the punishment prescribed by law for the latter offense.

The effect of the executive pardon upon the sentence of a court for a contempt is the only remaining question in this interesting investigation. The power to pardon, by English writers, is the most amiable prerogative of the crown. Bla. Com., 4, 326. It was a prerogative with the first monarchs of the law. In its extent it reached to all offenses against the crown or the public. Bla. Com., 4, 305. It does not reach to cases where private justice is concerned with the prosecution of offenders—such as *regulation of the courts of equity and common law*. 4 Inst. 224. This is in part statutes, where the offender has acquired a private property in a part of the penalty, the king cannot pardon the offense. Bla. Com., 4, 305. But some pardonable offenses are that of attempts of courts. In the statute of Westm., 2, 13. Edward I., c. 39, which has been claimed to have been the origin of the doctrine of constructive contempt, in speaking of the imprisonment of those who resist sheriffs, occur these words—"a qua non delict, enter sine speciali precepto domini regis,"—from which imprisonment, they shall not be released, but by the special command of our lord the king. It is moreover elsewhere said, that a pardon for all misdemeanors, trespasses, offenses or contempt in making a false return, and a striking in Westminster Hall, and battery and even a *premeditation*. Jacobs, 1, 5. Pard., 2. Hale, P. C. 252. 2 Mod. 53. Hyer, 303, a. The constitution of the State, art. 5, § 10, bestows upon the governor of the state "the power to grant reprieves and pardons, and to remit fines in all criminal and penal cases, except in those of treason and impeachment." But it has been suggested by counsel that contempt of court does not come under the class of criminal or penal cases. The attachment which issues upon the information of a contempt is a criminal process. Tidd, p. 4, 401. Bla. Com., 4, 231, calls the offense "a criminal charge." "A crime or misdemeanor is an act committed or omitted, in violation of a public law, either forbidding or commanding it." Bla. Com., 4, 15. The distinction of public wrongs from private, of crimes and misdemeanors from civil injuries, seems principally to consist in this: that private wrongs or civil injuries are an infringement or privation of the civil rights which belong to individuals, considered merely as individuals, public wrongs or crimes and misdemeanors are a breach and violation of public rights and duties, due to the whole community, considered as a community in its social aggregate capacity. Bla. Com., 4, 6. Contempts of courts are treated by all elementary writers as public wrongs. They are distinguished from ordinary crimes or misdemeanors, because in their punishment there is no intervention of a jury, the party being required or condemned by the suffrage of such persons only as the statute has appointed for his judge. Bla. Com., 4, 232. *Five summary sentences.* In short, the whole doctrine of contempt goes to the point that the offense is a wrong to the public, not to the person or the functionary to whom it is offered, considered merely as an individual. It follows then, that the contempt of court are either crimes or misdemeanors in proportion to the aggravation of the offense, and as such, are included within the pardoning power of this State. But, say the counsel, there are certain courts which have only civil jurisdiction, and yet those courts have the power to punish for contempt, therefore a contempt is not a criminal offense. This contention is a non sequitur from the statement of the case. The statement of the case shows that to the civil jurisdiction of the courts alluded to, a summary sentence for contempt is also necessarily attached for restraining offenses from interfering their proceedings, for which they must cease to exist. From all the foregoing considerations, I am brought to the belief that the petitioner is held in custody by unlawful authority, and that he is clearly entitled to his discharge therefrom, which is therefore ordered and decreed.

J. S. B. THACHER, Judge.

Mississippi Democrat.
T. C. JONES, EDITOR.
CARROLLTON:
TUESDAY, DECEMBER 17, 1844.
INTRODUCTORY.
We issue today the first number of the Mississippi Democrat, which we offer to our political friends in this portion of the State as an organ and advocate of their principles.

The time may be deemed by some insipid for the establishment of a political newspaper—so soon after the termination of one of the most violent and destructive contests which has marked the annals of the Union. To this we answer that there is now but the more need for a vigilant and independent press—not to fan the flame of discord, and arouse anew the excitement so impudently allayed by the verdict of the ballot-box, but to scan with a rigid scrutiny the conduct of those who fill public stations, and to arraign at the bar of public opinion the chosen exponents of the popular will, for every dereliction from duty. Other contests, too, as important as that which has terminated, will arise hereafter. Already the defeated party has thrown off the flimsy veil which disguised their vindictive malice towards a portion of our population—the large class who have sought among us an asylum from the oppression and tyranny of the privileged robbers of other countries—already have they formed an alliance with a faction who seek to fix the exercise of the rights of liberty by the arbitrament of the sword, and to light the torch of religious bigotry and persecution in this free country. If so they will, the Democratic party is prepared to meet them on this issue, as did their fathers in the days of Mr. Jefferson, to resist every attempt to extend the present naturalization laws, or to abridge the privilege of becoming citizens and holding property among us, and to continue this land of liberty, and the home of the oppressed of all nations.

The result of the recent election has inspired the Democracy with renewed faith in the purity of the principles of Equal Rights and popular government. In the words of an accomplished and eloquent champion of the cause—"The Democratic principle, having for a time been overwhelmed by arts and misrepresentations, has gathered energy to throw off the weight that bore it down; it has risen once more in its majesty, to be the guiding star of our nation, and the hope of humanity."

To vindicate the fruits of this victory—to maintain the reputation of the people's favor to a rigid accountability—to resist to the utmost the future wiles and machinations of the class who are to reap the benefit of partial legislation and special privileges through the medium of Banking, Funding, restrictive Tariff, or other monopolizing systems—and to use all honorable means to perpetuate the ascendancy of the principles of his party—is now the duty of every democrat. To these purposes we pledge ourselves as the conductor of a democratic press.

We have borrowed our motto—"That government is best which governs least," from a political aphorism and slogan, and an honor to the language of the American Democracy. In illustration of this, we shall defend "the broadest liberty of the citizen, compatible with the organic law," and the most simple government which will secure public safety.

Essential to the success of our institutions, and to the progress of our principles, is the establishment of a system of Free Schools. To effect this, we offer a zealous co-operation with the press of the State. It is much to the discredit of this favored section of the Union, that we have no successful system of public instruction, and the press of both political parties, cannot be engaged in a more profitable service than that of arousing our people to the importance of placing the acquisition of knowledge within the reach of all.

We believe that the creation of public debt for purposes other than the general defense, or to defray the actual expenses of government, is beyond the power of the constituted authorities, at war with the spirit of our institutions, calculated in the end to reduce the people to servitude—and we shall oppose all laws to levy taxes to pay the principal or interest of (so called) debts heretofore contracted in violation of the Constitution and laws of the State.

Believing union and concession necessary to party organization, we shall support such nominees as may be designated by a majority of the party in convention—the nominees being orthodox in their political faith.

The paper will not be entirely devoted to the discussion of political subjects.—We shall have an eye to other matters

calculated to instruct or interest; and articles, original and selected, in Agriculture, Science, Literature, &c. will be furnished, with a chronicle of passing events, and other matters within the sphere of a newspaper.

The Democrat will be published weekly, at THREE DOLLARS a year, payable in advance.

To meet the arrangement of the week, our paper will hereafter be issued on Wednesdays of each week.

WHAT THE WHIGS SAY OF THE PEOPLE AFTER THE ELECTION—GROANS OF THE DYING.
Extraneous bowling of certain success was a trump card of whigery during the late canvass, and the overwhelming defeat which they received at the hands of the people, seems to have much disheartened the quantity of "all the intelligence, patriotism, and talent" of the land. Carriers loud and desperate uttered against the large majority of the people who gave the fatal blow to the founding fortunes of the great "Embodiment" of modern whigery. A hundred different excuses are assigned for this disastrous rout of the forces of whigery, but all, true to the selfish interests of federalism, amounting in the same distrust of the people, and tendency to popular government. The most common are easy at work, and by the systematic exercise of the power of associated wealth in some sections of the Union, the attempt is made to force the refractory masses, at some future election, into obedience, and a quiet submission to the wishes and designs of those who arrogantly consider themselves born to "ride them" legislatively by the grace of God. The rapacious capitalists who partially succeeded during the transient reign of the hard-cider Congress, in engraving their system of privileged plunder upon the policy of the government, stand aghast at the prospect of losing the bounty they levy on labor, and are struck with astonishment that the influence of money, which they considered omnipotent, and which they contributed so liberally in the canvass, should have proved of no avail in so drastic a result. Like ravenous wolves, who have lapped the warm blood of their victim, they are braving with rage at the certainty of being driven from their repast—and it is but natural they should growl as they retreat from the victorious hosts of the democracy. The army of hungry office-seeking whigs scattered over the Union, (so graphically described by Mr. Duncan) not a few of whom were served in 1840, are saddened at the result, and predict dire calamities to the country. Indeed, the entire camp of whigery is in "most deplorable disorder."

The *Richmond Whig*, one of the leading organs, thus announced the final result:—"Democracy vs. Mr. Clay, and Democracy vs. Mr. Polk!—This result, so contrary to all human expectation, and so revolting to all sense of propriety, has shaken the community in mourning. The badge is not worn on the hat or the left arm—it is not exhibited in vain forms. It is told in the countenances of the people; in the gloom which overpowers nearly every countenance which is lighted up by intelligence! Our Rome mourns as old Rome did, when the battle of Cynosse was lost! The women are in tears for a great calamity, as if Hannibal was at the gates; and the very children look desolate and forlorn."

"When the cars on Saturday arrived and announced the result of the New York vote, a stern and funeral silence, broken only here and there in the throng, by a boy or an excited partizan, was observed by the immense multitude. The whigs felt that the country had been cheated and defiled by the most infamous system of fraud and misrepresentation into self-betrayal, and the Democrats present were ashamed, and very believe, of the candidate they had elected, and the cause which owed all its success to an extended and unblushing and persevering scheme of falsehood he ever disgraced an age of civilization!"

Disheartened with such incoherent and vague assertions of "fraud," and "falsehood," this same favorite organ of whigery the next day proceeded to account for the overthrow of the "embodiment," in the following manner:—"What art thou crying down, O my son?—Is it asked why we do feel so melancholy a depression at the result of the late great struggle? We answer frankly and promptly it is at the popular spirit which the contest has revealed; it is because a majority, or a claimed majority, of the American people have manifested so irreconcilable a hatred to the man who has best deserved of them, next to Washington, undoubtedly, in real and substantial services: It is because Henry Clay has been voted against, not for his opinions—not for his principles—but because he was Henry Clay, the first in service to his country, as the first in celebrity which extends to every climate of the civilized world!"

"This is the point of view which will present itself to the informed mind, instructed by the past experience of the world as the most important and the most fatal." "It is the incapacity to judge and to act wisely: It is the hatred of prominent merit: it is the preference for congenial likeness and ignobility: It is the spirit to pull down instead of the spirit of elevating superior merit, which to the mind acquainted with the transactions of past Republics, is not merely hateful for its meanness, but fearful for its enormity."

And the *National Intelligencer*, the head and front of all that is "dignified" and "respectable" among whig newspapers, expresses its matured opinion of the result and of a majority of the American people, in the following complimentary manner:—"Wholly unexpected, the event took us completely by surprise. Not even for a moment apprehended, the blow came upon us with a staggering force."

"That the judgment which has been rendered is not that of the intelligence of the country, no one will, we presume, be hardy enough to deny. Neither, we suppose, can any doubt be reasonably entertained that for the larger portion of the educated and informed people of the land voted for Clay and Frelinghuysen, and much the larger portion of those neither educated nor well-informed voted for their successful opponents. The decision can hardly be referred to an overruling Providence; for it is not the voice even of the majority of the people, which is commonly (but impudently) said to be the voice of God. If any event fraught with consequences so possibly momentous to millions of men can be properly attributed to accident, such surely is that which we are now speaking of."

The *Intelligencer* goes on to say:—"What contempt does it not cast upon their boasted knowledge of what is good in government. How unhappily but conclusively has it not established the tremendous power which mere jugglers and mountebanks exercise in the field of politics over unthinking and uneducated masses of men, while they have to encounter opponents armed only with high principles and patriotic purposes."

How appropriate for the party which originated the log-cabin and hard-cider mania of 1840, and the glebe-cloves of 1844! But the *New York Commercial*, the organ of the "cold-fish and cabbage" aristocratic division of the "democracy," caps the climax of abuse in the following extract. After enumerating the multitude of good of the two-dollar-a-day-and-meat-beef order, it says:—"The people in the event whigery has succeeded, he says."

"But all in vain. The saw that was washed returned to her wallowing in the mire; and the people who have been saved from national dishonor and national bankruptcy, from a deranged currency, a prostrated commerce, unemployed manufacturing, and a vast and wretched population, and universal distress and misery—have returned, mired, to their wallowing in the mire and filth of locofocoism; and why should any man mourn over their infatuation?"

The whig papers teem with such articles as we have quoted, and with the most unqualified abuse of "vagabond foreigners,"—of all, native or adopted, who refused to sanction their odious schemes of partial legislation and British policy. Let them be remembered. "Forewarned, forearmed."

CONGRESS.
Has been in session for two weeks past, and we may expect to receive Mr. Tyler's history message in a few days. We will publish it in our next.

The prominent topic of the session will be the annexation of Texas. It will be remembered that after the rejection of the treaty by the Senate, the papers, correspondence, &c. relating to the subject were sent in to the House, with a message recommending that the measure be effected by joint resolution. The matter was referred to the committee on Foreign Relations, and at the adjournment left among the unfinished business. From the unsettled aspect of affairs in Mexico, and the total failure of that country to prosecute the talked-of invasion, we shall not be surprised if the annexation is consummated during this session—certainly at an early period of the next session.

Among the important measures which it is to be hoped will be acted on, is a reduction of postage, or the adaptation of the rates to the Federal currency.

What friend at New Orleans will furnish us with an occasional letter for publication in the Democrat? Send to our address by any boat for Williams's Landing, Yazoo river, to care of our obliging friends, Wright & Wneite.

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JUDGE THACHER'S DECISION.
We lay before our readers in another part of this paper, the decision of Judge Thacher, on the application of Capt. Warren Henry, late editor of the *Vicksburg Sentinel*, for discharge from fine and imprisonment, imposed by Judge Coalter, on an alleged "contempt" of court. The decision also embraces the application of John Lavin, publisher of the same paper. The cases have excited great interest, and the decision of the Judge, apart from the able legal argument it contains, will be found a most triumphant vindication of the Rights of the People under our excellent popular Constitution, and as illustrating the progress of our free institutions.

The circumstances which led to the exercise of the judicial act of tyranny which the *Sentinel* is intended to arrest, were as follows: As a term of the Warren Circuit Court, some twelve months since, a true bill was found against D. W. Adams, for the murder of the lamented Dr. Hagan. He had previously been admitted to bail, in a small sum, by a magistrate's court, on a charge of manslaughter. The District Attorney twice moved the Court that the usual process issue against Adams, which was refused, and the accused, charged with the highest crime known to the laws, suffered to go at large. Scarcely is it—

—A state sin with gold,
And the strange chance of justice humbles breaks!"

The conduct of the presiding judge (Cotalter) was noticed and commented upon with merited severity in the columns of the *Sentinel*. Lavin first, and Hickey afterwards, were arraigned at the bar of the court, and sentenced by this tyrannous functionary, without the formality of trial granted to every man, to an extent of punishment not warranted by law, assuming them guilty of the crime charged. The Governor of the State, upon the representation of this act of tyranny over the rights of citizens, immediately interposed the Executive pardon, and restored the accused to the enjoyment of their liberty. The Judge, in a spirit of reckless usurpation, unsurpassed even among the million-and-one precedents to be found in that mass of injustice, bigotry, corruption, and humbuggery, accumulated by venal judges at the beck of corrupt monarchs, "the common law," set at defiance the Executive prerogative—treated the Governor as conniving at the escape of a convicted criminal—and remanded his victims to prison. The case then came before Judge Thacher, and elicited the decision which we publish, and for which we bespeak an attentive perusal.

A majority of the people of Mississippi have on more than one occasion shown a readiness to vindicate the Constitution as the supreme law of the State. The learned and accomplished author of the decision we publish, thus defines the structure of our State government:—"The Constitution is law, the people having been our legislators; and the statutes of the State, enacted pursuant to the Constitution, are law, the Senators and Representatives being the legislators."

By the bill of rights of the Constitution, it is guaranteed that "Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that liberty." If the article in the *Sentinel* was false and libellous, the aggrieved judge had the same recourse granted to others so wronged. In art. 1, sec. 11, of the State Constitution, it is provided that "No person shall be punished but in virtue of a law established and promulgated prior to the offense, and legally applied."

Contempt of Court is defined, and the punishment prescribed, in the statutes (quoted in the decision,) as follows:—"The Courts shall have power to fine and imprison any person who may be guilty of a contempt of the court, while sitting, either in the presence or hearing of such Court. Provided, that such fine shall not exceed one hundred dollars, and no person, for such contempt, shall be imprisoned for a longer period than during the term of the court at which the contempt shall have been committed."

And acting as the creature of the Constitution, and the administrator of the statutes, Judge Coalter, on an alleged contempt, committed not within "the presence and hearing of the court," but through the columns of a newspaper, imposed a fine of five hundred dollars, five months imprisonment, and the fine shall be paid—this in the face of the statute which limits the fine to one hundred dollars, and the imprisonment to the duration of the term of the court! And when the Governor interposes by the exercise of an undoubted prerogative granted as a safeguard to the rights of the people, the Judge, in full consummation of his official turpitude, recklessly disregards the Executive authority, and consigns American citizens to a dungeon, without the shadow of law, right, or justice, in extension! Upon what grounds can such an arbitrary and tyrannical use of the authority of his station be defended? What plea or precedent will justify him in pursuing the victims of his official malice, after they had been absolved by the Executive pardon?

We see it stated that an appeal has been taken to the bench of the High Court. If the conduct of Judge Coalter be established as precedent, our jails may soon be crowded, and a system of odious tyranny established. We agree with a "Farmer of

Holmes" that in the election of Judicial offices, the people should select those who love and cherish the spirit of our Democratic Republican institutions—wherever the great principles of Popular Liberty, and who, in decisions involving the political rights of the citizen, will be guided rather by our own liberal constitution, than by the corrupt precedents of the barbarous ages of a monarchy.

Judge Thacher richly merits the gratitude and approval of his constituents and countrymen, and well deserves the appellation of Defender of the Constitution.

ANNEXATION OF TEXAS.
Of all the great issues discussed in the late canvass, that which elicited most interest, and which formed the most distinctive ground of difference between the two parties, was the restoration of Texas to the Union. On this hinge turned most of the intrigues of whigery, and the democratic party met the issue in all sections of the Union, on the ground assumed by the Convention at Baltimore. The result has proved, beyond the possibility of a doubt, that the measure may now be brought forward under the omnipotent sanction of the people's will. We doubt not that but for the inaversion of Senator Benton, and the unfortunate position assumed by one or two others of the intellectual giants of the party, a far greater majority of the people would have given their sanction to this great American measure.

Col. Polk will come into office pledged in favor of immediate annexation; and there is no reason to doubt that he will bring the measure to a successful result, and restore the lone star to its place in our constellation.

JUDICIAL DISTRICTS.
We have heard some enquiry in relation to the new organization of the Judicial districts, under the act passed at the last session of the Legislature. The act takes effect "from and after the next general election,"—abolishes the existing 8th, 9th, 10th, and 11th districts, and divides the State into seven Circuit Districts, as follows:—

First District.	Second District.	Third District.	Fourth District.	Fifth District.	Sixth District.	Seventh District.
Wilkinson, Adams, Jefferson.	Franklin, Amite, Claiborne.	Copiah, Pike, Lawrence, Marion, Hancock, Simpson.	Tunica, Osage, Bolivar.	Jasper, Newton, Jackson, Jones, Greene, Perry.	Yazoo, Madison, Holmes, Attala.	Monroe, Lowndes, Oktibbeha, Choctaw.
		Covington, Harrison, Smith, Rankin, Scott.	Washington, Warren, Hinds.	Wayne, Clark, Lauderdale, Neshoba, Kemper.	Yalobusha, Tallahatchie, Carroll, Chickasaw.	Itawamba, Pontotoc, Lafayette, Panola.

The Courts in the Sixth district are to be held as follows:—
Tallahatchie—2d Mondays February and August—9 days.
Yalobusha—4th Mond. Feb. and Aug.—12.
Choctaw—2d Mond. March and Sept.—12.
Chickasaw—4th Mond. Mar. and Sept.—12.
Oktibbeha—1st Mond. after 4th Mond. Mar. and Sept.—6 days.
Lowndes—2d Mond. after 4th Mond. Mar. and Sept.—12 days.
Monroe—4th Mondays after 4th Mondays of March and September—12 days.
Carroll—2d Mond. May and Novem.—14.

Our whig friends called the nomination of Polk and Dallas a good joke. The New York papers relate a much better joke.—When returns from a portion of that State had been received in the city, the whigs, sanguine souls, were confident of having carried the State, and raised a rejoicing. A crowd of whigs, numbering many hundreds, proceeded with torchlight and transparency, to the residence of Mr. Frelinghuysen, and through their chosen orator, offered a congratulatory speech on the auspicious result. Mr. F. replied, joined in their joy, and promised to discharge the duties of the high station to which he had been elected, to the best of his ability.—Next morning's boat brought complete returns, much to the discomfiture of the good man, who played the Vice President for one night only.

The Electoral College of Mississippi met at Jackson on Wednesday, 4th instant, and cast the six electoral votes of the State for James K. Polk and George M. Dallas for President and Vice President of the United States.

Dr. LYON SELBY, of Warrenton, was elected, on the 15th ballot, as bearer of the official vote to the Federal city.

U. S. SENATORS.—Chester Ashley has been elected Senator from Arkansas, in place of Gov. Fulton, deceased; and Thomas H. Eason and D. R. Atchison, Senators from Missouri.